

Notice
of
Rulemaking

Tennessee Regulatory Authority

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 1:30 p.m. on the 18th day of October, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Regulatory Authority to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the agency's ADA Coordinator at 460 James Robertson Parkway, Nashville, TN 37243-0505, and (615) 741-2904.

For a copy of this notice of rulemaking hearing, contact: K. David Waddell, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN, and (615) 741-2904.

Substance of Proposed Rules

New Rules

1220-4-2-.59 Regulations For The Provisioning Of Tariff Term Plans And Special Contracts

(1) Definitions.

- (a) Average Annual Revenues – Aggregate revenues billable under a special contract or tariff term plan divided by the term length in years.
- (b) Revenue Price-out – Quantity for each rate or service element multiplied by the individual unit rate for that rate or service element.
- (c) Shortfall Provision – A plan or contract clause requiring the customer to pay the difference between the actual billed revenue and the revenue commitment for a discrete period of time agreed upon by the telecommunications carrier and the customer.
- (d) Special Contract – A service arrangement that is entered into between the telecommunications carrier and certain customers prescribing and providing services, rates, terms, practices, or conditions that are not

covered by or permitted in the tariffs or price lists filed by such telecommunications carrier. Special contracts include without limitation all special contract arrangements, contract service arrangements, individual case basis contracts, etc.

- (e) Tariff Term Plan – A service arrangement, including special promotions, offered to customers under the telecommunications carrier's general tariffs for a service term of three (3) months or longer.
 - (f) Telecommunications Carrier – For purposes of this rule, all facilities-based telecommunications carriers, excluding incumbent local exchange carriers with fewer than 100,000 total access lines in Tennessee unless such incumbent local exchange carrier voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange carrier applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.
 - (g) Termination Charges – All amounts, including but not limited to amounts resulting from the application of shortfall provisions, charged to the customer by the telecommunications carrier as a result of the cancellation of service prior to the time that the customer's obligations under a tariff term plan or special contract would have otherwise been satisfied.
- (2) Application. All telecommunications carriers as defined herein are subject to this rule. For purposes of this rule, resellers of telecommunications services are not classified as facilities-based telecommunications carriers.
 - (3) Availability. All rates, terms, and conditions of service provided to any customer under a tariff term plan or special contract shall be offered to any other customer for service of a like kind under substantially like circumstances and conditions.
 - (4) Termination charges.
 - (a) For all tariff term plans entered into after the effective date of this rule, termination charges shall not exceed repayment of discounts received during the previous twelve (12) months of service, except as specified in subparts (c) and (d) of this paragraph.
 - (b) For any special contracts entered into after the effective date of this rule, termination charges shall not exceed the total of the repayment of discounts received during the previous twelve (12) months of service, the repayment of the prorated amount of any waived or discounted non-

recurring charges, and the repayment of the prorated amount of any documented contract preparation, implementation and tracking, or similar charges, except as specified in subparts (c) and (d) of this paragraph.

- (c) Tariff term plans and special contracts shall not permit termination charges to exceed six percent (6%) of the total tariff term plan or special contract amount. For service terms longer than four (4) years, tariff term plans and special contracts shall not permit total termination charges to exceed twenty-four percent (24%) of the average annual revenues of the tariff term plan or special contract.
- (d) Termination charges for an individual service may exceed the levels specified in subparts (a), (b) and (c) of this paragraph only upon demonstration to the Authority that the unrecovered portion, if any, of the customer specific costs incurred to provide such service exceeds the levels in subparts (a), (b) and (c) of this paragraph in the event of early termination. Telecommunication carriers shall request the exception provided for herein when applying for approval.

(5) Filing requirements.

- (a) Each telecommunications carrier shall file with the Authority for review and approval a final, signed copy of all special contracts inclusive of attachments and addendums at least thirty (30) days before the effective date of such contracts. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof. All special contracts shall be accompanied by the following:
 - 1. Special contracts submitted by telecommunications carriers operating pursuant to Tenn. Code Ann. § 65-5-209 shall be accompanied by:
 - (i) Cost justification demonstrating adherence to the price floor as required under Tenn. Code Ann. § 65-5-208(c) and
 - (ii) Revenue price-outs for existing tariff rates, if applicable, and proposed contract rates.
 - 2. A tariff which sets forth a summary of each special contract entered into between the telecommunications carrier and the customer. At a minimum, such tariff summaries of special contracts shall include:
 - (i) Customer name and address;

- (ii) A full and complete description of the services provided or available to the customer;
 - (iii) All individual rates for services provided or otherwise available;
 - (iv) The term of service(s);
 - (v) Volume or quantity of services;
 - (vi) A detailed description of all applicable termination charges. Any request made pursuant to Rule 1220-4-2-.59(4)(d) shall include detailed calculations and supporting documentation;
 - (vii) Term requirements that the customer must fulfill to qualify for the special contract;
 - (viii) Volume or quantity requirements that the customer must satisfy to qualify for the special contract; and
 - (ix) Any and all other particular requirements or conditions that the customer must meet to qualify for the special contract.
- (b) Each telecommunications carrier shall file with the Authority for review and approval all tariff term plans at least thirty (30) days before the effective date of such plans. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof. Each tariff term plan filed by telecommunications carriers with the Authority shall include tariff language that sets forth at a minimum:
- 1. A full and complete description of the services available to customers;
 - 2. All individual rates for services available;
 - 3. A detailed description of all applicable termination charges. Any request made pursuant to Rule 1220-4-2-.59(4)(d) shall include detailed calculations and supporting documentation;
 - 4. Term requirements that a customer must fulfill to qualify for the tariff term plan;
 - 5. Volume or quantity requirements that a customer must satisfy to qualify for the tariff term plan; and

6. Any and all other particular requirements or conditions that a customer must meet to qualify for the tariff term plan.
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- (6) Amended tariffs. All telecommunications carriers as defined herein shall file amended tariffs consistent with the provisions of this rule. Such tariffs shall be filed with the Authority to become effective upon the effective date of this rule.

Authority: T. C. A. § 65-2-102.

Repeals

Subparagraph (g) of Paragraph (2) of Rule 1220-4-2-.55, Regulatory Reform is repealed.

Paragraph (3) of 1220-4-8-.07, Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers – Local Service is repealed.

Amendments

Subparagraph (e) of Paragraph (2) of Rule 1220-4-2-.55, Regulatory Reform, is amended by adding the following new part:

4. Special contracts and tariffs establishing or revising termination charges must be filed with the Authority for review and approval at least thirty (30) days prior to the effective date of such special contracts and/or tariff term arrangements. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof.

Authority: T. C. A. §65-2-102.

Subparagraph (c) of Paragraph (1) of Rule 1220-4-8-.07, Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers – Local Service, is amended by deleting the paragraph in its entirety and substituting instead the following new language so that, as amended, the subparagraph shall read:

Tariffs and price lists for new services shall be effective on the tariff or price filing date as defined in this Rule Chapter. Special contracts and tariffs establishing or revising termination charges must be filed with the Authority for review and approval with at least thirty (30) days notice prior to the effective date of such special contracts and/or tariff

term arrangements, unless upon application and for good cause shown the Authority may waive the thirty-day time period or any portion thereof.

Authority: T. C. A. §65-2-102.

Rule 1220-4-1-.07, Special Contracts, is amended by adding the following language:

Additional regulations regarding special contracts of certain telecommunications carriers are specified in Rule 1220-4-2-.59.

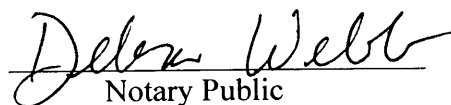
Authority: T. C. A. §65-2-102.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Regulatory Authority.



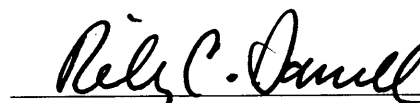
K. David Waddell
Executive Secretary

Subscribed and sworn to before me this the 31st day of August, 2000.


Notary Public

My commission expires on the 26th day of July, 2003.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of Aug., 2000.


Riley C. Darnell
Secretary of State

By: 